

Claim 1 stands rejected as being anticipated by European patent publication 757,006 (Ooms). Ooms discloses a filled piping bag comprising a plastic pouch with a nozzle base disposed therein, and a cap disposed outside the pouch, with coupling means for coupling the cap and the nozzle base together. Ooms discloses two embodiments of his invention, in both of which the nozzle base is bonded to the pouch by means of a "sealed joint 7, such as, for instance, a spot weld" (column 3, line 24). To facilitate the formation of such joint, the nozzle base is flattened at opposed sides 15 (column 3, lines 25-29). Although not specifically stated by Ooms, it will be understood that the piping bag as a whole is intended to be disposable following the depletion of its contents.

The thrust of the instant invention is the provision of piping bags wherein the pouch is disposable, but wherein the nozzle base is recoverable for re-use at the time of disposal of the pouch. This is advantageous in that it will permit the relatively expensive nozzle base to be incorporated into a cheap plastic pouch to provide a new piping bag at very little cost to the user, providing a possible incentive to the user to purchase the filled piping bag which is the subject of claim 1. Quite clearly, the Ooms' piping bag with its welded joint would not permit the recovery of the nozzle base, nor would it permit the re-use of the nozzle base with a new pouch in the manner described herein. Ecologically sensitive persons will perceive an advantage in the instant approach over that taken by Ooms.

A distinguishing feature of Claim 1 is the provision on the nozzle base of surface dislocations for the purpose of co-acting with the pouch to provide an enhanced gripping relationship therewith tending to resist reactive forces generated by the pouch which act to urge the nozzle base out of its gripped relationship. In contrast to such surface dislocations, which act to increase the grip between the pouch and the nozzle base, Ooms actually flattens the sides of his nozzle base, which would decrease the grip between the pouch and the nozzle base.

The examiner has alleged that applicant's surface dislocations are merely the equivalent of the threads provided on Ooms' nozzle base. This is strenuously denied; the purpose of Ooms' threads is merely to provide a means for coupling a cap to the nozzle base, in an

identical manner to applicant's cooperating coupling means, and there is no disclosure or suggestion to be found in a fair reading of Ooms that there should be any additional structure comparable in means or function to applicant's surface dislocations. Ooms was obviously aware of the problem facing applicant in retaining the nozzle base in position, for he refers to the nozzle base (insert 4) as "becoming detached from the angular tip (of the pouch) during storage of the piping bag and starting to float" (column 3, lines 19-21). At all material times, applicant's Claim 1 has been delimited in terms of both the surface dislocations and the coupling means. It is a fundamental tenet of claim construction that where two elements are delimited in a claim, both must be present before it can be found that a claim is infringed or anticipated. For greater certainty in this matter, Claim 1 is now amended to recite positively that the surface dislocations are apart from the complementary coupling means. In addition, it is stated that the nozzle base is retained in position by frictional gripping, which is in contradistinction to the welding means employed by Ooms.

For the foregoing reasons it is believed that Claim 1 is not anticipated by Ooms and that it defines an unobvious advance in the art, whereby the invention as a whole as now set forth in Claim 1 is patentable, and reconsideration of the rejection is solicited.

Claims 2,3,4 and 8 stand rejected on the same grounds as Claim 1; since each of these claims is dependent either directly or indirectly upon a claim that is believed to be patentable for the foregoing reasons, it is believed that these claims should also be found to be patentable, and reconsideration is requested.

Claims 5 and 6 stand rejected as being unpatentable over Ooms in combination with additional prior art cited by the examiner. In view of significant differences between the instant invention and the disclosure of Ooms as discussed above in relation to Claim 1, which differences are not rectified by this additional prior art, it is believed that Claims 5 and 6 should be found to be patentable also.

Claim 7 stands rejected on the same ground as Claim 1. Claim 7 serves to delimit the surface dislocations with greater particularity as a plurality of separate, spaced apart ribs. Support for this claim is clearly found in the drawings. As discussed above, the examiner has alleged that the threads of Ooms' nozzle base are merely the equivalent of the ribs of Claim 7, and applicant again refutes such allegation, and considers that the allegation is not properly founded in view of the absence from Ooms of structure comparable in function and purpose to both applicant's threads forming a part of his coupling means and applicant's ribbed surface dislocations.

Claim 10 stands rejected as being anticipated by Ooms. Claim 10 is directed to a kit for forming what is now defined more specifically as a kit suitable for domestic use for forming a piping bag with a disposable pouch. The claim further requires that the nozzle be held in place when inserted into the pouch solely by frictional means whereby the nozzle base is recoverable from the pouch to permit its reuse. Such limitations are of importance, as the kits are normally sold with a single nozzle base and several pouches, and refill kits are commonly made available containing only pouches. Applicant's kit as defined in claims 10 permits a functional and operational piping bag to be assembled within a domestic environment. By contrast, the Ooms' arrangement necessitates welding of the nozzle base to the pouch, which is obviously not a practical consideration in a domestic environment, and it also makes the re-use of the nozzle base virtually impossible. Still further, as indicated above in relation to Claim 1, Ooms teaches away from the mechanical, frictional, gripping relationship between the pouch and the nozzle base, which is a central feature of this invention, by flattening the sides of the nozzle base, which will act to diminish the gripping interaction between the pouch and the nozzle base. It is not believed that the threads or the like of Ooms that are provided solely for the purpose of retaining the cap 14 on the nozzle base can be construed as being the equivalent of applicant's surface dislocations for reasons more fully amplified above in connection with Claim 1. In view of the foregoing, it is believed that Claim 10 is clearly not open to the objection raised by the examiner pursuant to 35 USC 102, nor is the invention believed to be unpatentable as a whole pursuant to 35 USC 103 (a).

Claims 11, 13 - 15, 18 and 19 stand rejected variously in view of Ooms taken alone or with other prior art; since each of these claims depends directly or indirectly on Claim 10, they are believed to be patentable at least for the reasons set forth in connection with that claim.

Claim 16 stands rejected as being anticipated by Ooms, and is believed to be patentable for similar reasons to those set forth in the discussion of Claim 7 above.

Claim 17 is believed to be patentable at least for the reasons set forth in connection with Claim 16 upon which it depends.

Claim 21 stands rejected as being anticipated by Ooms. This claim is directed to a kit wherein there are provided a plurality of pouches joined together in a web. It is respectfully observed that there is no disclosure or contemplation of this aspect of the invention in Ooms, nor does it appear to be found in any of the other prior art of record herein or of which applicant is aware. The provision of pouches formed in a web in the manner set forth in Claim 21 provides a small but meaningful economic advantage, particularly in view of the relatively low cost of the instant kits, and it is believed that this claim is directed to a patentable advance in the art.

Claim 22 stands rejected as being anticipated by Ooms. It is denied that Ooms either teaches or suggests the structure delimited in this claim. The nozzle base of Ooms clearly has no surface dislocations in the form of spaced apart ribs which are raised thereon and which are separate from the coupling means, e.g. the threads used by Ooms to connect cap 14 to the nozzle base. As discussed above, Ooms actually directs persons away from this structure and function by flattening the sides of the nozzle base so as to facilitate welding the nozzle base to the pouch.

Claim 23 and 24 are believed to be patentable at least for the reasons set forth above in connection with Claim 22 upon which they depend.

Claim 25 stands rejected as being anticipated by Ooms. It is believed that Claim 25 is patentable at least for the reasons set forth in connection with Claim 22 upon which it depends. Moreover, neither Ooms nor any combination thereof with other prior art known to application would direct a person with routine skill in the art to make the article of Claim 25 with a view to achieving the likely benefits accruing from the use thereof, which are solely disclosed by the instant specification.

Claim 26 stands rejected pursuant to 35 USC 103(a) as being unpatentable over Ooms in view of Craig, GB 2, 237,224 and applicant's admissions of the prior art. The examiner alleges that Claim 26 differs from Ooms only in the delimitation of the nozzle being stainless steel, which difference is filled by the disclosure of Craig and applicant's admissions. Such allegation is strenuously denied, first in regard to the basic structure of Ooms' nozzle base, for reasons more completely amplified above. Moreover, Ooms clearly discloses the necessity of welding the pouch to the nozzle base, and this would obviously not be possible when the nozzle base is made from stainless steel. In regard to Craig, it is believed that the structure of the pouch and nozzle base (outlet 22) as illustrated by the patentee is wholly conventional. More specifically, Craig is completely silent as to the material of construction of the nozzle base and the manner in which it is retained in the pouch. Since the latter is of the fabric type (page 6 line 3) it is suggested that the nozzle base would be retained in a conventional manner, and the problem of retaining a nozzle base, particularly where the latter is made from stainless steel, within a disposable plastic film pouch by frictional means is not address by Craig or any combination thereof with Ooms.

In regard to applicant's disclosure, applicant has stated at page 2, lines 15,16 that it has not heretofore possible to provide disposable pouch type piping bags with stainless steel nozzles, and prior to applicant's commercialization of the invention, that was certainly the case. It may be noted that the word 'nozzle' as used in the above referred-to portion of the disclosure is more or less synonymous with 'nozzle base', and that it was not intended to refer to nozzle caps, which have for many years been manufacture from a wide range of materials including stainless steel. Nozzle caps of stainless steel are retained in flow

relation with the nozzle base in the manner exemplified by Craig and Ooms and as set forth herein, by using a screw coupling or the like which in no manner presages the instant invention.

It is believed for the foregoing reasons that Claim 26 clearly defines an inventive advance in the art, and that it is not open to the objection raised by the examiner. It is also believed that newly submitted Claims 27 and 28 are patentable in their own right for the same reasons as Claim 26, and also in view of patentability of the claims upon which they depend.

Favorable reconsideration of the application is respectfully requested in view of the foregoing.

Respectfully submitted

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